



DEPARTMENT OF COMMERCE

International Trade Administration

[A-201-845]

Agreement Suspending the Antidumping Duty Investigation on Sugar from Mexico: Preliminary Results of the 2020-2021 Administrative Review and Postponement of Final Results

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that the respondents selected for individual examination, respectively, Ingenio Tala S.A. de C.V. and Ingenio Tamazula S.A. de C.V. (collectively, respondents), were in compliance with the terms of the Agreement Suspending the Antidumping Duty Investigation on Sugar from Mexico, as amended (AD Agreement) during the period of review (POR) from December 1, 2020, through November 30, 2021. Commerce also preliminarily determines that the AD Agreement met the applicable statutory requirements during the POR.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Sally C. Gannon or Jill Buckles, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0162 or (202) 482-6230, respectively.

SUPPLEMENTARY INFORMATION:

Background

Commerce and Mexican producers/exporters accounting for substantially all imports of sugar from Mexico signed the AD Agreement under section 734(c) of the Tariff Act of 1930, as

amended (the Act), which suspended the underlying antidumping duty investigation, on December 19, 2014, and which was subsequently amended on January 15, 2020.¹

On December 23, 2021, the American Sugar Coalition and its members (the petitioners)² filed a timely request for an administrative review of the AD Agreement.³ On February 4, 2022, Commerce initiated an administrative review for the period December 1, 2020, through November 30, 2021.⁴

On March 15, 2022, Commerce selected two companies as mandatory respondents, listed in alphabetical order: Ingenio Tala S.A. de C.V. and Ingenio Tamazula S.A. de C.V.⁵

Scope of the AD Agreement

The product covered by this AD Agreement is raw and refined sugar of all polarimeter readings derived from sugar cane or sugar beets. Merchandise covered by this AD Agreement is typically imported under the following headings of the HTSUS: 1701.12.1000, 1701.12.5000, 1701.13.1000, 1701.13.5000, 1701.14.1020, 1701.14.1040, 1701.14.5000, 1701.91.1000, 1701.91.3000, 1701.99.1015, 1701.99.1017, 1701.99.1025, 1701.99.1050, 1701.99.5015, 1701.99.5017, 1701.99.5025, 1701.99.5050, and 1702.90.4000.⁶ The tariff classification is provided for convenience and customs purposes; however, the written description of the scope of this AD Agreement is dispositive.⁷

Methodology and Preliminary Results

¹ See *Sugar from Mexico: Suspension of Antidumping Investigation*, 79 FR 78039 (December 29, 2014); see also *Sugar from Mexico: Amendment to the Agreement Suspending the Antidumping Duty Investigation*, 85 FR 3620 (January 22, 2020) (collectively, *AD Agreement*).

² The members of the American Sugar Coalition are: American Sugar Cane League; American Sugarbeet Growers Association; American Sugar Refining, Inc.; Florida Sugar Cane League; Rio Grande Valley Sugar Growers, Inc.; Sugar Cane Growers Cooperative of Florida; and the United States Beet Sugar Association.

³ See Petitioners' Letter, "Request for Administrative Review," dated December 23, 2021.

⁴ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 87 FR 6487 (February 4, 2022).

⁵ See Memorandum, "Respondent Selection," dated March 15, 2022.

⁶ Prior to July 1, 2016, merchandise covered by the AD Agreement was also classified in the HTSUS under subheading 1701.99.1010. Prior to January 1, 2020, merchandise covered by the AD Agreement was also classified in the HTSUS under subheadings 1701.14.1000 and 1701.99.5010.

⁷ For a complete description of the Scope of the AD Agreement, see Memorandum, "Decision Memorandum for the Preliminary Results of the 2020-2021 Administrative Review: Sugar from Mexico," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

Commerce has conducted this review in accordance with section 751(a)(1)(C) of the Act, which specifies that Commerce shall “review the current status of, and compliance with, any agreement by reason of which an investigation was suspended.” Pursuant to the AD Agreement, each signatory producer/exporter individually agrees that it will not sell subject merchandise at prices less than the reference prices established in Appendix I to the AD Agreement.⁸ Each signatory producer/exporter also individually agrees that for each entry the amount by which the estimated normal value exceeds the export price (or the constructed export price) will not exceed 15 percent of the weighted average amount by which the estimated normal value exceeded the export price (or constructed export price) for all less-than-fair-value entries of the producer/exporter examined during the course of the investigation.⁹ The signatory producers/exporters also individually agree to provide documentation upon request from Commerce¹⁰ and provide certifications each quarter¹¹ to allow Commerce to monitor the AD Agreement. In addition, the signatory producers/exporters agree to incorporate into their sales contracts with Intermediary Customers¹² the obligation that such customers will abide by the terms of the AD Agreement.¹³ Lastly, the signatory producers/exporters agree to ensure that Other Sugar¹⁴ is tested for polarity by a laboratory approved by CBP upon entry into the United States and that the importers of record report the polarity test results for each entry to Commerce within 30 days of entry.¹⁵

After reviewing the information received to date from the respondent companies in their questionnaire and supplemental questionnaire responses, we preliminarily determine that the respondents have adhered to the terms of the AD Agreement and that the AD Agreement is

⁸ See *AD Agreement* at Section VI and Appendix I.

⁹ *Id.* at Section VI.

¹⁰ *Id.* at Sections VII.B.1, VII.B.2, and VII.B.4.

¹¹ *Id.* at Section VII.C.4.

¹² “Intermediary Customer” is defined in Section II.N of the *AD Agreement*.

¹³ See *AD Agreement* at Section VII.C.5.

¹⁴ “Other Sugar” is defined Section II.F of the *AD Agreement*.

¹⁵ See *AD Agreement* at Section VII.C.6.

functioning as intended. Further, we preliminarily determine that the AD Agreement continues to meet the statutory requirements under sections 734(c) and (d) of the Act.

We were not able to complete our review of one aspect of the AD Agreement, the requirement in Section VI to eliminate at least 85 percent of the dumping found in the investigation, and we therefore intend to address this issue in a post-preliminary analysis. Due to the complex nature of the issue, we find that we require additional time and information in order to complete our examination. Therefore, we will continue our examination after the issuance of these preliminary results as to whether the respondents complied with the requirement to eliminate at least 85 percent of the dumping found in the investigation during the POR, and we intend to issue a post-preliminary analysis addressing the issue as soon as practicable.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>. Commerce also addresses one issue, which requires discussion of business proprietary information, in a separate memorandum which we incorporate into the Preliminary Decision Memorandum.¹⁶

Verification

As provided in section 782(i) of the Act, Commerce may verify the information relied upon in making its final results. Normally, Commerce verifies information using standard procedures, including an on-site examination of original accounting, financial, and sales documentation. While we consider the possibility of conducting an on-site verification for the information submitted by the respondents, we may also need to verify the information relied

¹⁶ See Preliminary Decision Memorandum at 6 and fn. 44.

upon in making the final results through alternative means in lieu of an on-site verification.

Commerce intends to notify parties of its verification procedures, as applicable.

Public Comment

Commerce intends to issue a post-preliminary analysis memorandum subsequent to the publication of this notice to address the issue of compliance with the requirement to eliminate at least 85 percent of the dumping found in the investigation. Case briefs may be submitted no later than seven days after the date on which the last final verification report is issued in this review. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline date for case briefs.¹⁷ Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.¹⁸ All briefs must be filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety by the established deadline. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.¹⁹

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days after the date of publication of this notice.²⁰ Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs. If a request for a hearing is made, Commerce intends to

¹⁷ See 19 CFR 351.309(d)(1); see also *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020) (*Temporary Rule*).

¹⁸ See 19 CFR 351.309(c)(2) and (d)(2).

¹⁹ See *Temporary Rule*.

²⁰ See 19 CFR 351.310(c).

hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Postponement of Final Results

Section 751(a)(3)(A) of the Act, requires Commerce to complete the final results of an administrative review within 120 days after the date on which the preliminary results are published. If it is not practicable to complete the review within this time period, section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2) allow Commerce to extend the time limit for the final results to a maximum of 180 days after the date on which the preliminary results are published. We determine that it is not practicable to complete the final results of this administrative review within 120 days from the date of publication of these preliminary results. Commerce requires additional time to analyze supplemental questionnaire responses and submissions of factual information, complete our examination, issue our post-preliminary analysis, potentially conduct verification of questionnaire responses, and allow for case briefs and rebuttal briefs on our preliminary and post-preliminary results. Accordingly, Commerce is extending the deadline for the final results of this administrative review by 60 days. The final results of the review will now be due no later than 180 days from the date of publication of these preliminary results.

Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: December 27, 2022.

Lisa W. Wang,
Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Agreement
- IV. Preliminary Results of Review
- V. Discussion of the Issues
- VI. Recommendation

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